

EXHIBIT D

Ahrens, Katherine

Sacramento, CA

May 20, 2009

Page 1

1 UNITED STATES DISTRICT COURT
 2 FOR THE DISTRICT OF MASSACHUSETTS

3 -----X

4 In re: PHARMACEUTICAL) MDL No. 1456
 5 INDUSTRY AVERAGE WHOLESALE)
 6 PRICE LITIGATION) Master File No.
 7 -----) 01-12257-PBS
 8 THIS DOCUMENT RELATES TO:) Subcategory Case
 9 State of California ex rel.) No. 06-11337
 10 Ven-A-Care of the Florida) Hon.
 11 Keys, Inc. v. Abbott Labs,) Patti B. Saris
 12 Inc, et al.,)
 13 Civil Action No.)
 14 03-11226-PBS)

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16
 17 VIDEOTAPED DEPOSITION OF
 18 KATHERINE AHRENS
 19 Wednesday, May 20, 2009
 20 Sacramento, California

21
 22 REPORTED BY: JOHN P. SQUIRES, CCRR, CSR No. 2001

Ahrens, Katherine

May 20, 2009

Sacramento, CA

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| <p style="text-align: right;">Page 2</p> <p>1 APPEARANCES OF COUNSEL:</p> <p>2</p> <p>3 For Dey, Inc., Dey, L.P., Mylan, Inc., and Mylan</p> <p>4 Pharmaceuticals, Inc.:</p> <p>5 KELLEY DRYE & WARREN, LLP</p> <p>6 BRENDAN CYR, ESQ.</p> <p>7 101 Park Avenue</p> <p>8 New York, New York 10178</p> <p>9 212.808.7800</p> <p>10 bcyr@kelleydrye.com</p> <p>11</p> <p>12</p> <p>13 For the California Department of Health Care</p> <p>14 Services:</p> <p>15 OFFICE OF THE ATTORNEY GENERAL</p> <p>16 STATE OF CALIFORNIA</p> <p>17 RANDAL L. GLASER, DEPUTY ATTORNEY GENERAL</p> <p>18 110 West A Street, Suite 1100</p> <p>19 San Diego, California 92101</p> <p>20 619.688.6411</p> <p>21 Randal.glaser@doj.ca.gov</p> <p>22</p> | <p style="text-align: right;">Page 4</p> <p>1 APPEARANCES OF COUNSEL: (CONTINUED)</p> <p>2</p> <p>3 For Sandoz, Inc.</p> <p>4 WHITE & CASE</p> <p>5 LARA A. BERWANGER, ESQ.</p> <p>6 1155 Avenue of the Americas</p> <p>7 New York, New York 10036-2787</p> <p>8 212.819.2549</p> <p>9 lberwanger@whitecase.com</p> <p>10</p> <p>11</p> <p>12 For Ven-A-Care of the Florida Keys:</p> <p>13 KRAUSE, KALFAYAN, BENINK & SLAVENS, LLP</p> <p>14 DAVID B. ZLOTNICK, ESQ.</p> <p>15 625 Broadway, Suite 635</p> <p>16 San Diego, California 92101</p> <p>17 619.232.0331</p> <p>18 dzlotnick@kkbs-law.com</p> <p>19</p> <p>20 ALSO PRESENT:</p> <p>21 Suzanne Graydon, Investigative Auditor II</p> <p>22 Benjamin Lewis, Videographer</p> |
| <p style="text-align: right;">Page 3</p> <p>1 APPEARANCES OF COUNSEL: (CONTINUED)</p> <p>2</p> <p>3 For the California Department of Health Care</p> <p>4 Services:</p> <p>5 OFFICE OF THE ATTORNEY GENERAL</p> <p>6 STATE OF CALIFORNIA</p> <p>7 RAYMOND J. LIDDY, Deputy Attorney General</p> <p>8 1455 Frazee Road, Suite 315</p> <p>9 San Diego, California 92108</p> <p>10 619.688.6482</p> <p>11 raymond.liddy@doj.ca.gov</p> <p>12</p> <p>13 -and-</p> <p>14</p> <p>15 OFFICES OF LEGAL SERVICES</p> <p>16 DEPARTMENT OF HEALTH CARE SERVICES</p> <p>17 BARBARA B. DAYVAULT, SENIOR COUNSEL</p> <p>18 1501 Capitol Avenue</p> <p>19 Sacramento, California 95814</p> <p>20 916.440.7854</p> <p>21 bdayvaul@dhs.ca.gov</p> <p>22</p> | <p style="text-align: right;">Page 5</p> <p>1 I N D E X</p> <p>2</p> <p>3 WITNESS: KATHERINE AHRENS PAGE</p> <p>4 Examination By Mr. Cyr..... 010</p> <p>5 Examination By Ms. Berwanger..... 190</p> <p>6</p> <p>7</p> <p>8 E X H I B I T S</p> <p>9 NUMBER DESCRIPTION PAGE</p> <p>10 Exhibit Ahrens 001 - Medi-Cal Contracting</p> <p>11 Section Pharmacy Pricing</p> <p>12 Calculation Examples..... 094</p> <p>13 Exhibit Ahrens 002 - Undated letter, Lewis to</p> <p>14 Salyer..... 121</p> <p>15 Exhibit Ahrens 003 - Medi-Cal Drug Rebate</p> <p>16 Agreement..... 121</p> <p>17 Exhibit Ahrens 004 - 10-14-03 e-mail from Berk</p> <p>18 to Ahrens, attachments.... 137</p> <p>19 Exhibit Ahrens 005 - 9-6-02 letter from Hillbom</p> <p>20 to Johnston..... 143</p> <p>21 Exhibit Ahrens 006 - E-mail string and</p> <p>22 attachments..... 147</p> |

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| <p style="text-align: right;">Page 6</p> <p>1 E X H I B I T S (CONTINUED)</p> <p>2 NUMBER DESCRIPTION PAGE</p> <p>3 Exhibit Ahrens 007 - 5-3-04 e-mail from Walker</p> <p>4 to Agnew, et al.,</p> <p>5 attachments..... 152</p> <p>6 Exhibit Ahrens 008 - State of California's</p> <p>7 Objections And Responses</p> <p>8 to Defendant Abbott's</p> <p>9 First Set of</p> <p>10 Interrogatories..... 167</p> <p>11 Exhibit Ahrens 009 - E-mail string..... 195</p> <p>12 Exhibit Ahrens 010 - Database of contracts..... 198</p> <p>13 Exhibit Ahrens 011 - 8-4-92 letter from</p> <p>14 Hartmann to Neff..... 202</p> <p>15 Exhibit Ahrens 012 - Remittance Advice,</p> <p>16 attachments..... 204</p> <p>17 Exhibit Ahrens 013 - Check, attachments..... 205</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> | <p style="text-align: right;">Page 8</p> <p>1 name is Brendan Cyr. I'm with the law firm of</p> <p>2 Kelly Drye & Warren in New York and I represent</p> <p>3 Dey, Inc., Dey, L.P., Mylan, Inc., and Mylan</p> <p>4 Pharmaceuticals.</p> <p>5 MS. BERWANGER: Lara Berwanger, from</p> <p>6 White & Case, representing Sandoz, Inc.</p> <p>7 MR. GLASER: My name is Randy Glaser.</p> <p>8 I'm with the California of Department of Justice.</p> <p>9 I'm here on behalf of the Department of Health</p> <p>10 Services and I'll be defending Ms. Ahrens today.</p> <p>11 MR. LIDDY: Raymond Liddy, also with the</p> <p>12 DOJ.</p> <p>13 MS. DAYVAULT: Barbara Dayvault, with</p> <p>14 the Department of Health Care Services.</p> <p>15 MS. GRAYDON: Suzanne Graydon, with</p> <p>16 California DOJ.</p> <p>17 MR. ZLOTNICK: David Zlotnick,</p> <p>18 representing Ven-A-Care of the Florida Keys.</p> <p>19 THE VIDEOGRAPHER: Thank you.</p> <p>20 Will the reporter please swear in the</p> <p>21 witness.</p> <p>22</p> |
| <p style="text-align: right;">Page 7</p> <p>1 P R O C E E D I N G S</p> <p>2</p> <p>3 THE VIDEOGRAPHER: Good morning. We're</p> <p>4 on the video record, ladies and gentlemen, at</p> <p>5 9:05.</p> <p>6 I'm Benjamin Lewis, with Henderson Legal</p> <p>7 Services in Washington D.C. The phone number</p> <p>8 there is 202 220-4158.</p> <p>9 This is a matter pending before the U.S.</p> <p>10 District Court, District of Massachusetts, in the</p> <p>11 case captioned Pharmaceutical Industry Average</p> <p>12 Wholesale Price Litigation, Case Number 01-12257-</p> <p>13 PBS.</p> <p>14 This is the beginning of tape 1 of</p> <p>15 today's video deposition of Katherine Ahrens on</p> <p>16 May 20, 2009.</p> <p>17 We are located at 1300 I Street,</p> <p>18 Sacramento, California 94244.</p> <p>19 Counsel, would you please identify</p> <p>20 yourselves, beginning with the questioning</p> <p>21 attorney.</p> <p>22 MR. CYR: Good morning, Ms. Ahrens. My</p> | <p style="text-align: right;">Page 9</p> <p>1 On Wednesday, May 20, 2009, at the hour</p> <p>2 of 9:05 of said day, at the Office of the Attorney</p> <p>3 General, State of California Department of</p> <p>4 Justice, 1300 I Street, Sacramento, California,</p> <p>5 before me, JOHN P. SQUIRES, a Certified Shorthand</p> <p>6 Reporter, personally appeared KATHERINE AHRENS,</p> <p>7 who was examined as a deponent in said cause.</p> <p>8</p> <p>9 THE VIDEOGRAPHER: You may proceed.</p> <p>10 MR. CYR: Before we get started with the</p> <p>11 deposition, I'd just like to clarify something for</p> <p>12 the record.</p> <p>13 We had served a notice, yesterday I</p> <p>14 believe, for Ms. Ahrens' deposition and the</p> <p>15 deposition notice itself erroneously noted that</p> <p>16 you were being noticed as a 30(b)(6) witness and</p> <p>17 it was actually our intention to notice you -- or</p> <p>18 notice Ms. Ahrens as a 30(b)(1) witness in her</p> <p>19 individual capacity. It's our understanding --</p> <p>20 and I think Mr. Glaser and I had a discussion off</p> <p>21 the record before -- that Ms. Ahrens will be</p> <p>22 appearing in her individual capacity as a 30(b)(1)</p> |

3 (Pages 6 to 9)

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| <p style="text-align: right;">Page 10</p> <p>1 witness.</p> <p>2 Mr. Glaser, can you confirm that?</p> <p>3 MR. GLASER: Yeah, that's correct.</p> <p>4 MR. CYR: Okay.</p> <p>5</p> <p>6 KATHERINE AHRENS,</p> <p>7 the deponent herein, having been first duly sworn,</p> <p>8 was examined and testified as follows:</p> <p>9</p> <p>10 EXAMINATION</p> <p>11 Q. Good morning, Ms. Ahrens.</p> <p>12 Could you state and spell your name for</p> <p>13 the record, please.</p> <p>14 A. Katherine, K-a-t-h-e-r-i-n-e, last name</p> <p>15 Ahrens, A-h-r-e-n-s.</p> <p>16 Q. Ms. Ahrens, did you used to be known by</p> <p>17 another name, another last name?</p> <p>18 A. Yes.</p> <p>19 Q. What was that last name, please?</p> <p>20 A. One would have been Salz, S-a-l-z, as in</p> <p>21 zebra.</p> <p>22 Q. Okay.</p> | <p style="text-align: right;">Page 12</p> <p>1 A. I don't recall the year. It was a few</p> <p>2 years ago.</p> <p>3 Q. Okay. More than five years ago?</p> <p>4 A. I'm not sure.</p> <p>5 Q. Okay. What was the nature of the</p> <p>6 lawsuit? Strike that.</p> <p>7 What were the nature of the claims in</p> <p>8 the lawsuit?</p> <p>9 A. The beneficiary was challenging our</p> <p>10 authority to establish -- or to make a drug, a</p> <p>11 certain drug prior authorized, to require prior</p> <p>12 authorization for a certain drug, and also</p> <p>13 challenging the process by which we established</p> <p>14 criteria and the validity of the criteria for that</p> <p>15 particular drug.</p> <p>16 Q. Okay. And what was the drug at issue?</p> <p>17 A. Serostim.</p> <p>18 Q. Serostim?</p> <p>19 And what is that drug for?</p> <p>20 A. It's a human growth hormone that is</p> <p>21 approved by the Food and Drug Administration for</p> <p>22 the treatment of kakexia associated with AIDS or</p> |
| <p style="text-align: right;">Page 11</p> <p>1 A. And my maiden name was Cabacungan, C-a-</p> <p>2 b-a-c-u-n-g-a-n.</p> <p>3 Q. Okay. And when did your name change</p> <p>4 from Cabacungan to Ahrens?</p> <p>5 A. June 29, 2002.</p> <p>6 Q. Okay. And did it change because you</p> <p>7 were married?</p> <p>8 A. Yes.</p> <p>9 Q. Okay. Did you marry Tom Ahrens?</p> <p>10 A. Yes.</p> <p>11 Q. Okay. Have you ever been deposed</p> <p>12 before?</p> <p>13 A. Yes.</p> <p>14 Q. How many times?</p> <p>15 A. Once.</p> <p>16 Q. What was the -- what type of matter were</p> <p>17 you deposed in?</p> <p>18 A. Well, it was a lawsuit.</p> <p>19 Q. Okay.</p> <p>20 A. A beneficiary suing the State, suing</p> <p>21 Medi-Cal.</p> <p>22 Q. Okay. When were you deposed?</p> | <p style="text-align: right;">Page 13</p> <p>1 AIDS wasting -- not AIDS wasting. For AIDS or</p> <p>2 HIV-associated illness.</p> <p>3 Q. Okay. What was the result of that</p> <p>4 lawsuit?</p> <p>5 A. The beneficiary lost the lawsuit.</p> <p>6 Q. So the drug remained as a prior</p> <p>7 authorization status?</p> <p>8 A. Um-hmm.</p> <p>9 Q. What do you mean when you say "prior</p> <p>10 authorization"?</p> <p>11 A. That means that the provider must seek</p> <p>12 approval from Medi-Cal for payment -- for Medi-Cal</p> <p>13 to pay for a product or service.</p> <p>14 Q. Okay.</p> <p>15 A. It's not just drugs that are prior auth.</p> <p>16 Some services are as well. Other services are as</p> <p>17 well.</p> <p>18 Q. Well, and if a service wasn't -- prior</p> <p>19 authorization wasn't required for a service, am I</p> <p>20 correct in assuming that the provider would just</p> <p>21 be able to -- let's say it's a drug. Would the</p> <p>22 provider just be able to dispense the drug and</p> |

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| <p style="text-align: right;">Page 210</p> <p>1 remember any false statement that anyone from 2 Sandoz ever made? 3 A. How would I know? 4 MR. GLASER: I'm going to caution the 5 witness to let me interject. 6 I would object as to form. 7 THE WITNESS: How would I know? If I 8 don't remember the conversation or any aspect of 9 the conversation, how would I remember if anything 10 was true or false? I remember nothing about the 11 conversation. 12 MS. BERWANGER: Q. And another way of 13 saying that is that you do not remember anything 14 being false? 15 MR. GLASER: Object as to form. 16 MS. BERWANGER: Q. Correct? 17 A. I would not state it as such. 18 I do not remember any portion of the 19 conversation. 20 MS. BERWANGER: I have no further 21 questions. 22 Subject to any further document</p> | <p style="text-align: right;">Page 212</p> <p>1 CERTIFICATE OF REPORTER 2 I, JOHN P. SQUIRES, a Certified Shorthand 3 Reporter, hereby certify that the witness in the 4 foregoing deposition, KATHERINE AHRENS, was duly 5 sworn by me; that the testimony of said witness was 6 taken down in shorthand by me at the time and place 7 herein stated; that the testimony of said witness was 8 thereafter reduced to typewriting, by computer, under 9 my direction and supervision. 10 I further certify that I am not of counsel 11 or attorney for any of the parties to said cause, nor 12 in any way interested in the outcome of this cause 13 and I am not related to any of the parties thereto. 14 I declare under penalty of perjury that the 15 foregoing is true and correct. I have hereunto set 16 my hand on May 28, 2009. 17 18 19 _____ 20 John P. Squires, CSR No. 2001 21 22</p> |
| <p style="text-align: right;">Page 211</p> <p>1 production by the State of California or any 2 further discovery or questions to the witness, 3 I'll pass the witness. 4 Thank you very much. 5 MR. GLASER: I have no questions. 6 MR. CYR: So I guess we're done for the 7 day. 8 THE VIDEOGRAPHER: This concludes 9 today's deposition of Katherine Ahrens. We're now 10 off the video record at approximately 4:41. 11 12 13 14 15 _____ 16 KATHERINE AHRENS 17 18 Subscribed and sworn to and before me 19 this _____ day of _____, 20 ____. 20 21 _____ 22 Notary Public</p> | |

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